

## LOUISIANA BASE ANCHORS IN BASE PATH LACKED PROTECTIVE CAPS

**SALLIS v. CITY OF BOSSIER CITY**  
**680 So.2d 1333 (La.App. 2 Cir. 1996)**  
**COURT OF APPEAL OF LOUISIANA, SECOND CIRCUIT**  
**September 25, 1996**

In this case, plaintiff Randy Sallis injured his knee while participating in a softball tournament at a recreational complex owned and maintained by defendant, the City of Bossier City. The facts of the case were as follows:

The National Softball Association ("NSA") sponsored the 1991 Rose Classic Softball Tournament played on May 18-19 at Tinsley Park, a recreational facility owned and operated by the City of Bossier City ("the City"). Sallis played in the tournament on a team sponsored by Big Star Grocery Store of Many, Louisiana.

Tinsley Park had four softball fields, two with grass infields (fields 3 & 4) and two with dirt infields (fields 2 & 5). All four fields were used on Saturday, May 18th, the first day of the tournament. Because of heavy rain on Saturday, Billy Walden, the supervisor at Tinsley Park, told Don Farrat, NSA regional director, that the grass fields could not be used on Sunday. The rain continued on Sunday and before play started, Walden "dragged" the two dirt fields with a tractor and scarifier.

Sallis' team played the fourth or fifth game on field 2 on Sunday. Sallis batted tenth in the lineup and on his first at bat hit a ground ball between first and second bases. The second baseman's attempt to throw Sallis out was wide causing the first baseman to lean toward home plate to catch the ball. To avoid a collision, Sallis slid headfirst into first base. **During the slide, five feet from first base, Sallis struck a steel shaft permanently fixed in the base path which ripped open his knee.**

The trial court found that "Sallis' injuries were caused by the City's negligence" and entered a judgment against the City awarding Sallis damages. The City appealed.

On appeal, the City argued that the trial court had erred in imposing liability under the circumstances of this case. According to the appeals court, the City, in the "**maintenance and operation of its public parks, playgrounds and recreational areas,**" owed the following legal duty "**commensurate with ordinary and reasonable care under the circumstances.**"

**The city is not the insurer of the safety of those using such facilities, nor is it required to eliminate every source or possibility of danger. Rather, it is held to the same degree of care as any other person or entity in possession and control of land.**

**The owner or custodian of immovable property has a duty to keep the premises in a reasonably safe condition. He must discover any unreasonably dangerous condition on the premises and either correct that condition or warn potential victims of its existence.**

Further, the appeals court stated that **Sallis had to establish the following facts "to impose negligence liability on the City":**

**(1) the City owned or had custody of the thing which caused the damage; (2) the thing was defective in that it created an unreasonable risk of harm to others; (3) the City had actual or constructive knowledge or notice of the defect prior to the accident and failed to take corrective action within a reasonable time; and (4) causation.**

In this particular instance, the appeals court noted that "the City's ownership and custody were not disputed." Moreover, the appeals court found "the evidence clearly establishes that Sallis' injuries were caused by his striking a steel shaft hidden in the base path." As a result, **the specific issue in determining negligence liability was "whether Sallis showed that the steel shaft presented an unreasonable risk of harm and that the City had knowledge of the defect prior to the accident."**

Based upon the following facts, the appeals court found **clear evidence that "the steel shaft causing Sallis' injury did not have its rubber covering and was hidden from view just below the dirt/mud":**

Billy Walden, maintenance supervisor with the City's Parks and Recreation Dept., stated that Bolco base anchors were installed in the softball fields at Tinsley Park. The base anchor is one method of securing base pads to the ground; other methods of attachment include straps, side stakes and permanent installation. Because several of the base anchors had been bent by players sliding into a base and by City employees when dragging and raking the fields, they were replaced with stakes of heavier gauge metal in 1990.

Because of a variety of baseball and softball leagues using different field dimensions, the City installed three permanent sets of base anchors on each field at distances of 60, 65 and 70 feet. The hollow steel shafts were set in concrete and covered with approximately two to three inches of dirt. Use of one set thus necessarily involved non-utilization of the other two sets.

**Walden stated that when not in use, a thick mushroom-shaped rubber cap five inches in diameter was placed on the top of each unused base anchor. The caps served dual purposes; they kept mud and dirt out of the hollow shafts and prevented injury to players.**

Although Tinsley Park was rented out to NSA for the softball tournament, **maintenance of the fields remained the responsibility of the Parks and Recreation Dept.** Because of the heavy rains on Saturday, the grass infields were being damaged. Walden informed Farrat, the tournament director, that no further games would be played on the two grass fields.

The tournament, however, was allowed to continue on the two dirt fields. Walden and his crew dragged these fields with a tractor and spiked attachment before any games began on Sunday. According to Walden, all that this accomplished was to "push the mud around." **Walden stated that he did not check to see whether the protective rubber caps had been displaced and whether the anchor shafts were exposed during the previous day's games or as a result of**

**his efforts to maintain the fields.** He also testified that **he did not inform any of the tournament officials or participants of the hidden and unused anchors in the base paths.**

Further, the appeals court found that **"the unprotected and hidden steel shaft located five feet in front of first base constituted an unreasonable risk of harm."** In so doing, the appeals noted that "softball is commonly played in the rain" and "play in inclement weather softens the soil and tears up the field." In particular, the appeals court found that "tournament play on a wet, muddy field causes excessive wear and tear to the field."

**It is common and customary for softball to be played in the rain and mud.** On this weekend, the fields were extremely muddy and base running was more difficult. **Billy Walden and Don Farrat discussed implementing a "no slide" rule; however, the umpires, coaches and players were never notified of such a regulation.** Charlie Mason and Larry Hattaway, who played on plaintiff's team, observed several players sliding in the game before theirs on Sunday.

Both Mason and Hattaway witnessed plaintiff's accident. According to his teammates, Randy dove towards first base to avoid a wide throw from the second baseman. All of a sudden, Randy began screaming. Mason ran out onto the field and when he turned his injured teammate over, he saw that Randy's knee had been torn open.

Mason and Hattaway observed that Randy struck a metal base anchor in the running path approximately five feet in front of first base. Both were unequivocal that **the steel shaft did not have a protective rubber cap.** Neither Walden nor Bob Carter, an employee of the Parks and Recreation Dept. who witnessed the accident, could remember whether the protective rubber cap was in place.

**The City's installation of multiple sets of base anchors allowed for the easy adaptation of the park's fields for use by a number of baseball and softball leagues. The City, however, introduced no evidence of similar multiple base peg use in other recreational complexes or information concerning the safety of this type of installation. All of the witnesses, including the NSA regional director, testified that they were unaware that Tinsley Park was equipped with more than one set of base pegs.**

Moreover, the appeals court rejected as "meritless" the City's argument that it was "unaware of the hazard posed by the unprotected base peg":

The base anchors were installed by City employees. There was a conscious decision by the City to install not one, but three pegs at different distances for each base on each field. **In addition to the City's awareness of the presence of multiple base anchors, we find that the City knew or should have known that these base pegs, if unprotected, posed an unreasonable risk of harm and that it failed to implement a procedure to insure that each unused shaft was covered.**As noted previously, utilization of one set of base anchors required the nonuse of two sets of meted stakes. These stakes were located in the base path and supposedly covered with a protective cap and two to three inches of dirt. City employees whose responsibilities included maintenance of the fields at Tinsley Park testified that they occasionally struck or ran over the

base anchors while mowing and grading the fields. On the date of Sallis' accident, Walden tried unsuccessfully to grade the field where the injury occurred. According to Walden, all that he accomplished was rearranging the mud.

**The officials, coaches and players were not informed of the presence of the additional base anchors, nor were the base anchors at 60 and 70 feet checked to ascertain whether the weather, maintenance efforts or tournament play had uncovered the unused stakes or dislodged their protective coverings.**

Having found that "the City was negligent and that this negligence caused Sallis' injuries," the appeals court considered whether NSA or Farrat owed a legal duty to Sallis to prevent his injury. Under the circumstances of this case, the appeals court held that Sallis had "failed to establish that NSA or Farrat had knowledge of the alleged premises defect."

There was **no evidence that NSA or Farrat was aware of the dangerous condition, i.e. an unprotected base anchor in the base line...** [T]he dangerous condition was an unprotected base anchor located five feet in front of first base. The testimony is uncontroverted that Farrat, NSA's representative, was unaware that there were base pegs in the base line of the Tinsley Park fields. Furthermore, Billy Walden, Tinsley Park supervisor, testified that he never told anyone from NSA that there were base anchors in the base paths.

In addition, the appeals court found "no merit" in the City's assertion that "NSA and Farrat were negligent for failing to terminate tournament play because of the inclement weather." According to the appeals court, Sallis' injuries were caused "not by his playing softball on a muddy field, but by sliding into an unprotected stake located a few feet in front of the base." The appeals court, therefore, affirmed the judgment of the trial court dismissing NSA and Farrat and finding the City liable for negligence.